

**FILED**

**MAR 11 2016**

**SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES, *ex rel.*, CHRISTOPHER  
KAES,

Plaintiff,

v.

CALIFORNIA GENERATOR SERVICE  
CORPORATION, *et al.*,

Defendants.

**UNITED STATES' NOTICE OF ELECTION TO  
DECLINE INTERVENTION; [PROPOSED]  
ORDER TO UNSEAL**

Case No. C 14-00649 LB

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action. Although the United States declines to intervene, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.* The United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States only has the right to a hearing when it objects to a settlement or dismissal of the action. *U.S. ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v.*

1 *Northrop Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994).

2 Therefore, the United States requests that, should either the relator or the defendants propose that  
3 this action be dismissed, settled, or otherwise discontinued, this Court provide the United States with  
4 notice and an opportunity to be heard before ruling or granting its approval.

5 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings  
6 filed in this action be served upon the United States. The United States also requests that orders issued  
7 by the Court be sent to the government's counsel. The United States reserves its rights to order any  
8 deposition transcripts and to intervene in this action, for good cause, at a later date, and to seek dismissal  
9 of the relator's action or claim. *See* 31 U.S.C. § 3730(c)(2), (3). The United States also requests that it  
10 be served with all notices of appeal.

11 Finally, the United States requests that the Court unseal: (1) relator's Complaint; (2) the  
12 summons, if any; (3) this Notice of Election to Decline Intervention, with (Proposed) Order to Unseal;  
13 and (4) all other matters occurring in this action after the date the Court enters the unsealing order.

14 DATED: March 9, 2016

Respectfully submitted,

15 BRIAN J. STRETCH  
Acting United States Attorney

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STEVEN J. SALTIEL  
Assistant United States Attorney  
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19  
20 ~~PROPOSED~~ ORDER

21 The United States having declined to intervene in this action pursuant to the False Claims Act,  
22 31 U.S.C. § 3730(b)(4)(B), IT IS HEREBY ORDERED that:

23 1. The Complaint, the summons, this Order, and the accompanying United States' Notice of  
24 Election to Decline Intervention are hereby unsealed.

25 2. The relator shall serve the Complaint on defendants.

26 3. The seal shall be lifted as to all other matters occurring in this action after the date of this  
27 Order.

28 4. The parties shall serve all pleadings and motions filed in this action, including supporting

1 memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may  
2 order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time.

3 5. The parties shall serve all notices of appeal upon the United States.

4 6. All orders of this Court shall be sent to the United States.

5 7. Should the relator or the defendants propose that this action be dismissed, settled, or  
6 otherwise discontinued, the Court will provide the United States with notice and an opportunity to be  
7 heard before ruling or granting its approval.

8 IT IS SO ORDERED.

9 Dated: March 11, 2016

  
HON. LAUREL BEELER  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following to be served this date upon each of the persons indicated below at the address(es) shown::

**UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION; [PROPOSED] ORDER TO UNSEAL**

United States, ex rel., Christopher Kaes, v. California Generator Service Corporation, et al.  
Case No. C 14-00649 LB (Filed Under Seal)

Donald R. Warren  
Warren & Benson Law Group  
7825 Fay Ave., Suite 200  
La Jolla, CA 92037

☒ **BY FIRST CLASS MAIL** by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **CERTIFIED MAIL (#)** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **BY PERSONAL SERVICE (BY MESSENGER):** I caused such envelope to be delivered by hand to the person or offices of each addressee above.

☐ **BY FACSIMILE (FAX):** I caused each such document to be sent by facsimile to the person or offices of each addressee above.

☐ **BY E-MAIL:** I caused each such document to be sent by e-mail to the person or offices of each address above

☐ **BY FEDERAL EXPRESS**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 9, 2016 at San Francisco, California

  
KATHY TERRY  
Legal Assistant

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER KAES, et al.,  
Plaintiffs,

v.

CALIFORNIA GENERATOR SERVICE  
CORPORATION, et al.,  
Defendants.

Case No. 3:14-cv-00649-LB  
\*SEALED\*

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 3/14/2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Steven J. Saltiel  
United States Attorney's Office  
450 Golden Gate Avenue, PO Box 36055  
San Francisco, CA 94102

Dated: 3/14/2016

Susan Y. Soong  
Clerk, United States District Court

By:   
Lashanda Scott, Deputy Clerk to the  
Honorable LAUREL BEELER

United States District Court  
Northern District of California